

Applicants agree that the claims of Group I concern semiconductor methods and that the claims of Group II concern devices of making semiconductor devices. However, applicants traverse the subject restriction requirement on the grounds that it fails to comply with the express language of 35 U.S.C. §121, which states that a restriction is only proper between claims that are both "independent and distinct." The Office Action alleges that restriction is required because the invention of applicants' claims are "distinct." However, it has not been alleged that applicants' claimed invention is "independent and distinct," and yet this requirement is a prerequisite under the Patent Statutes before the Commissioner's discretion may be exercised under 35. U.S.C. §121.

Therefore, it is respectfully submitted that the Restriction Requirement should be removed because there has not been alleged a valid ground under 35 U.S.C. §121 for exercising the Commissioner's discretion and requiring the restriction.

Although the provisional election of the claims of Group I, i.e., claims 1-21, is provisionally made herein, the restriction requirement is respectfully traversed, and reconsideration and withdrawal of the requirement for restriction is respectfully requested.

Respectfully submitted,

SEND CORRESPONDENCE TO:

Motorola, Inc.
Law Department

Customer Number: 23330

By:


Miriam Jackson
Attorney of Record
Reg. No.: 33,911
Telephone: 602-952-4362
Fax No.: 480-952-4376